

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 227 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

KOTHARI PHARMACEUTICAL & CHEMICALS PVT.LTD.

Appearance:

MR MANISH R BHATT for Petitioner
NOTICE NOT RECD BACK for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

ORAL JUDGEMENT

"At the instance of the Revenue, the following question is referred to this Court under Section 256 (1) of the Income Tax Act 1961 :-

"whether, the Appellate Tribunal is right in law and on facts is directing the assessing officer not to deduct the subsidy received by the

assessee company form the cost of the assets for the purpose of calculating depreciation and investment allowance ?"

2. The Tribunal decided the controversy following the decision of this Court in the case of CIT Vs. Grace paper Industries Pvt. Ltd. reported in (1990) 183 ITR Apex Court in the case of CIT Vs. P.J.Chemicals, reported in 210 ITR 830. Hence , the question is required to be answered against the Revenue and in favour of the Assessee. According, we answer the question in favour of the Assessee and against the Revenue.

3. It is shown in the board that the notice issued to the respondent assessee is not received back. However, as we are passing the order in favour of the assessee, we are disposing of this matter.

4. This reference is disposed of accordingly with no order as to costs."